



General Assembly

Substitute Bill No. 6829

January Session, 2001

***AN ACT CONCERNING EX PARTE COMMUNICATIONS WITH THE
DEPARTMENT OF PUBLIC UTILITY CONTROL.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-181 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) Unless required for the disposition of ex parte matters
4 authorized by law, no hearing officer or member of an agency who, in
5 a contested case, is to render a final decision or to make a proposed
6 final decision shall communicate, directly or indirectly, in connection
7 with any issue of fact, with any person or party, or, in connection with
8 any issue of law, with any party or the party's representative, without
9 notice and opportunity for all parties to participate.

10 (b) Notwithstanding the provisions of subsection (a) of this section,
11 a member of a multimember agency may communicate with other
12 members of the agency regarding a matter pending before the agency,
13 and members of the agency or a hearing officer may receive the aid
14 and advice of members, employees, or agents of the agency if those
15 members, employees, or agents have not received communications
16 prohibited by subsection (a) of this section.

17 (c) Unless required for the disposition of ex parte matters
18 authorized by law, no party or intervenor in a contested case, no other
19 agency, and no person who has a direct or indirect interest in the

20 outcome of the case, shall communicate, directly or indirectly, in
21 connection with any issue in that case, with a hearing officer or any
22 member of the agency, or with any employee or agent of the agency
23 assigned to assist the hearing officer or members of the agency in such
24 case, without notice and opportunity for all parties to participate in the
25 communication.

26 (d) The provisions of this section apply from the date the matter
27 pending before the agency becomes a contested case to and including
28 the effective date of the final decision. Except as may be otherwise
29 provided by regulation, each contested case shall be deemed to have
30 commenced on the date designated by the agency for that case, but in
31 no event later than the date of hearing.

32 (e) A hearing officer or member of an agency who, in a contested
33 case, is to render a final decision or a proposed final decision or a staff
34 person of such officer or member may communicate with members of
35 the General Assembly and members of the executive branch and
36 receive communications from such persons on issues of law or policy
37 that may be present in a pending contested case if: (1) The
38 communication is necessary for the effective formulation of legislation
39 that relates to the operations of the subject agency; (2) the
40 communication is confined to general issues of law and policy that
41 avoid any discussion of the facts of any pending contested case; (3) the
42 members of the General Assembly or executive branch with whom
43 communication is made (A) are not parties or intervenors in any
44 contested cases that are relevant to the issues of law discussed, and (B)
45 have no direct or indirect interest in the outcome of the contested case;
46 and (4) the members of the General Assembly or executive branch do
47 not in any way attempt to direct the outcome of the contested case.

48 (f) A presiding officer or member of an agency who holds an
49 uncontested proceeding or a staff person of such officer or member
50 may have an ex parte communication with any participant in such
51 proceeding in accordance with the following procedures: (1) A person
52 who makes a written ex parte communication shall, no later than the

53 next business day after the communication, submit a copy of the
54 communication to the subject agency under separate cover for
55 inclusion in the public record of each docket to which the
56 communication relates. Such person shall attach a cover letter to such
57 communication that clearly identifies the proceeding to which the
58 communication relates, including the docket number, and identifies
59 the communication as ex parte in nature. A copy of any such
60 submission shall be served on each participant in the uncontested
61 proceeding as required for filings otherwise submitted in the
62 proceeding, (2) a participant of the uncontested proceeding, other than
63 a member of the subject agency, who is party to an oral ex parte
64 communication shall, no later than the next business day after such
65 communication, submit a memorandum, under separate cover, to the
66 subject agency that (A) summarizes the communications for inclusion
67 in the public record of each docket to which the communication relates
68 that describes the substance of the ex parte communication and not
69 merely lists the subjects discussed; (B) clearly identifies any
70 uncontested proceeding to which the communication relates, including
71 the docket number, and (3) identifies the communication as ex parte in
72 nature. A copy of any such submission shall be served on each
73 participant to the uncontested proceeding. The subject agency may
74 correct or supplement any submissions filed pursuant to this
75 subsection. The fact that an ex parte communication occurred during
76 an uncontested proceeding shall not permit a person to examine
77 agency members, hearing officers or presiding officers during the
78 course of any administrative proceedings and shall not be considered
79 prejudicial by any court of law provided those persons involved in the
80 ex parte communication complied with the provisions of this
81 subsection.

82 Sec. 2. This act shall take effect from its passage.

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JOINT FAVORABLE SUBST. C/R

GAE